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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/810,009

03/26/2004

Silvio Nunez

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

08/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/810,009

Applicant(s)

NUNEZ, SILVIO

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-10 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-10 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "tools" set forth in claims 1 and 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 1-3, 6-10 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to whether the "sink" is intended to be part of the claimed combination since structure of the "drain trap" is defined as being connected thereto (lns. 3-4), but no positive structural antecedent basis therefor has been defined. Claim 8 is similarly indefinite. Claims 2, 3, 6, 7, 9, 10 and 13 depend from claims 1 and 8.

Applicant argues at page 13 of the response filed June 21, 2007 the sink is not part of the claimed combination. The examiner accepts this position, however, the language should then refer to the sink functionally in the claim bodies (like line 15 of claim 1) so as not to confuse a reader of the claim scope.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bower and Uriarte.

The Bower reference discloses a drain trap comprising: a lower bowl D; threads (pg. 1 par. 6); a sealed E cover; a vertical conduit A; and a monolithic horizontal (at least a portion) conduit B. The drain trap is capable of being used with an "influent drain line" and "effluent exit line" in the functionally recited manner. The lower bowl is capable of being attached without the use of tools. Indeed, a wrench seat is not required by Bower (pg. 1 par. 10). The vertical and horizontal conduits are integral with the cover (as illustrated). Re claim 13, the choice of material would appear an obvious choice to be made. Therefore, Bower teaches all claimed elements except for the vertical conduit being monolithic, and for the provision of compression nuts.

Although the vertical conduit of the Bower drain trap may not be monolithic, as claimed, attention is directed to the Uriarte reference which discloses an analogous drain trap which further includes a monolithic (Fig. 1) vertical conduit 4. Therefore, in consideration of Uriarte, it would have been obvious to one of ordinary skill in the drain trap art to associate a monolithic vertical conduit with the Bower drain trap in order to form the cover and vertical conduit together.

Although the vertical and horizontal conduits of the Bower drain trap do not include compression nuts, as claimed, attention is again directed to Uriarte which discloses vertical 4 and horizontal 5 conduits having compression nuts 12,13. Therefore, in further consideration of Uriarte, it would have been obvious to one of ordinary skill in the drain trap art to associate compression nuts with the Bower vertical and horizontal conduits in order to facilitate connection to influent drain and effluent exit lines.

Applicant argues at pages 13-14 of the response Bower does not teach a vertical conduit. The examiner can not agree as conduit A of the Bower trap is equivalent to applicant's disclosed vertical conduit 30. Applicant argues at page 14 of the response the Bower trap includes a valve mechanism. The examiner agrees, however, the instant claims do not distinguish

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Bower. Applicant argues at page 15 of the response Uriarte does not teach a monolithic vertical conduit. The examiner can not agree as conduit 4 of the Uriarte trap is analogous to the vertical conduit A of the Bower trap.

5. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bower and Uriarte as applied to claims 8-10 and 13 above, and further in view of Budde and Olive.

The Bower lower bowl is transparent (pg. 1 par. 2).

Although the lower bowl of the Bower drain trap does not include a cone-shaped indicator, as claimed, attention is directed to the Budde reference which discloses an analogous drain trap which further includes a lower bowl W having a cone-shaped indicator K. Therefore, in consideration of Budde, it would have been obvious to one of ordinary skill in the drain trap art to associate a cone-shaped indicator with the Bower lower bowl in order to inhibit clogging.

Although the horizontal conduit of the Bower drain trap does not include a flexible conduit segment, as claimed, attention is directed to the Olive reference which discloses an analogous drain trap which further includes a horizontal conduit 32 having a flexible conduit segment 36. Therefore, in consideration of Olive, it would have been obvious to one of ordinary skill in the drain trap art to associate a flexible

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conduit segment with the Bower horizontal conduit in order to facilitate installation.

Applicant argues at pages 16-17 of the response the cone-shaped indicator of Budde is for an entirely different purpose than the claimed cone-shaped indicator K. The examiner can not agree. The cone-shaped indicator K of Budde functions to deflect waste water (as accurately noted by applicant) which is analogous to a purpose for applicant's cone-shaped indicator (pg. 8 lns. 173-175).

6. Applicant's remaining remarks have been fully considered and either have been previously addressed or are not deemed persuasive in view of the prior art as specifically applied in light of the level of skill in the pertinent art.

7. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

8. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not



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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

A handwritten signature in black ink, appearing to read 'Robert M. Fetsuga', is positioned above the printed name and title.

Robert M. Fetsuga  
Primary Examiner  
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